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May 10, 2024

BY CM/ECF

The Honorable Richard G. Andrews
J. Caleb Boggs Federal Building
844 N. King Street
Unit 9
Room 6325
Wilmington, DE 19801-3555

Re: *Epic Tech, LLC v. VGW Luckyland, Inc. et al.*, C.A. No. 23-118-RGA

Dear Judge Andrews:

Pursuant to this Court's April 26, 2024, Order (D.I. 29), Plaintiff Epic Tech, LLC ("Epic Tech" or "Plaintiff") submits the following status report regarding the above-captioned matter.

In its April 26, 2024, Order (D.I. 28), this Court granted leave for Epic Tech to conduct limited non-party discovery. Specifically, Epic Tech was authorized to issue a non-party subpoena (the "Subpoena") pursuant to Federal Rule of Civil Procedure 45 to the Fifth Third Bank ("Fifth Third") requesting that Fifth Third provide documents identifying the identity and/or accounts associated with a purchase made by Plaintiff's investigator. It was believed that once this information was obtained from Fifth Third, Plaintiff would be able to identify the bank(s) used by Defendants in operation of their website, and that those entities could be subpoenaed to provide revenue information sufficient to support a motion for default judgement by Epic Tech.

On or about May 2, 2024, the Subpoena was served on Fifth Third's registered agent in Columbus, Ohio. *See* Exhibit A, Proof of Service.

On April 26, 2024, Plaintiff's counsel was contacted by an attorney representing the defendants stating that the defendants had only recently learned about the litigation and were in the process of obtaining counsel in Delaware. Plaintiff's Counsel Kelly O. Wallace ("Wallace") has had several subsequent communications with defendants' counsel regarding defendants' intent to ask the Court to open default and the possibility of an early settlement to resolve this matter. Wallace has also engaged in several meetings with the client regarding the imminent appearance of the defendants in this matter, the terms of a potential settlement, and changes to litigation strategy due to appearance of defendants.

On May 9, 2024, Plaintiff's counsel was contacted by a representative of Fifth Third requesting additional information that could help it respond to the Subpoena and requesting a two-week extension of time to produce any responsive documents. Wallace responded to this request with the (limited) additional information presently available and agreed to the extension of time with the caveat that plaintiff would be unlikely to agree to a further extension. Plaintiff's counsel



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further submits a representation of how many hours spent on this case in the preceding two weeks as follows:

Lead Counsel	13.9 Hours
DE Counsel	1.8 Hours

As of the date of this Status Report, Plaintiff's attorneys have not received a response from Fifth Third for the additional information requested in the second Subpoena.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "John D. Simmons".

John D. Simmons (#5996)